

AT A REGULAR MEETING OF THE CULPEPER COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD ROOM, LOCATED AT 302 N. MAIN STREET, ON WEDNESDAY, NOVEMBER 5, 2003.

**Board Members Present:**

**John F. Coates, Chairman**

Steven L. Walker, Vice-Chairman

William C. Chase, Jr. (arrived 11:35 a.m.)

Sue D. Hansohn

James C. Lee

Brad C. Rosenberger (arrived 10:07 a.m.)

Carolyn S. Smith

**Staff Present:**

Frank T. Bossio, County Administrator

J. David Maddox, County Attorney

Valerie H. Lamb, Finance Director

John C. Egertson, Planning Director

Paul Howard, Director of Environmental Services

Peggy S. Crane, Deputy Clerk

**Newly Elected Supervisor:** Steven E. Nixon, West Fairfax District

**CALL TO ORDER**

Mr. Coates, Chairman, called the meeting to order at 10:00 a.m.

**INVOCATION**

Rev. W. B. "Billy" Scott, Pastor, Divine Life Full Gospel Baptist Church, presented the invocation.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

Mr. Walker led the members of the Board and the audience in the Pledge of Allegiance to the flag.

Mr. Coates announced that Mr. Rosenberger and Mr. Chase had been delayed, but would join the meeting later.

Mr. Coates recognized Steve Nixon as the newly elected member to the Board from the West Fairfax District.

**RE: AGENDA - ADDITIONS AND/OR DELETIONS**

Mr. Frank Bossio, County Administrator, asked that the following changes be made to the agenda:

Under **CONSENT AGENDA**, delete Item c, The Board will consider approving acceptance and appropriation of a grant for the Sheriff's Office from the U. S. Department of Criminal Justice Services Homeland Security Overtime Program in the amount of \$40,898. The grant was approved for \$25,000 federal funds with a local match of \$15,898 from the Sheriff's Operating budget.

Under **GENERAL COUNTY BUSINESS**, delete Item 6, **DEVELOPMENT AGREEMENT – ANGLER BROADLANDS, LLC.**

Under **CONSENT AGENDA**, add Item i, The Board will consider approving a request from the Department of Emergency Services to apply for a grant from the Department of Emergency Management in the amount of \$5,000, which would be used to cover the cost of instructors to train individuals in the area of emergency response skills (no local match required).

Under **GENERAL COUNTY BUSINESS**, add Item 3-A, **RE: AGRICULTURAL ENTERPRISE ZONE ACT** - Mary M. Heinrich will make a presentation to the Board on the goal of the Agricultural Enterprise Zone Act.

Under **CLOSED SESSION**, add Item 5, Under *Virginia Code* § 2.2-3711(A)(1) and (A)(7), to consult with the County Attorney concerning enforcement of various County Zoning Ordinances against a specific County landowner and its relation to other potential developments; and Item 7 - **CONSIDER AFTER CLOSED SESSION AT REQUEST OF COUNTY ATTORNEY: WATER AND SEWER AGREEMENT – ANGLER BROADLANDS, LLC/TOWN OF CULPEPER.**

Mr. Walker moved, seconded by Mrs. Smith, to amend the agenda accordingly.

Mr. Coates called for voice vote.

Ayes - Coates, Hansohn, Lee, Smith, Walker

Absent - Chase, Rosenberger

Motion carried 5 to 0.

#### **RE: MINUTES**

The minutes of the October 7, 2003 regular meetings were presented to the Board for consideration.

Mrs. Hansohn moved, seconded by Mr. Walker, to approve the minutes as presented.

Mr. Coates called for voice vote.

Ayes - Coates, Hansohn, Lee, Smith, Walker

Absent - Chase, Rosenberger

Motion carried 5 to 0.

#### **CONSENT AGENDA:**

Mr. Bossio reviewed the following Consent Agenda items with the Board:

- a. The Board will consider approving a Resolution Endorsing Rappahannock River Basin Commission Water Supply Planning Project;
- b. The Board will consider approving a budget amendment for the Culpeper Human Services for a National Emergency Grant received in the amount of \$50,000;

- c. **~~DELETION:~~** ~~The Board will consider approving acceptance and appropriation of a grant for the Sheriff's Office from the U. S. Department of Criminal Justice Services Homeland Security Overtime Program in the amount of \$40,898.00. The grant was approved for \$25,000.00 federal funds with a local match of \$15,898 from the Sheriff's Operating budget;~~
- d. The Board will consider approving a budget transfer for the School system for FY 02 funds in the amount of \$700,000 to be carried forward to FY 03;
- e. The Board will consider approving a Resolution requesting that *CulpeperCounty.gov* be retained as current domain name;
- f. The Board will consider approving a request from the Parks and Recreation Department to apply for a soccer grant to offset expenses in the construction phase of the Culpeper Community Complex project in the amount of \$110,000 (no local match required);
- g. The Board will consider approving a budget amendment for State funds received from the Division of Motor Vehicles from the sale of Animal License plates in the amount of \$840;
- h. The Board will consider approving a resolution for filing of applications for financial assistance relating to damages, costs, expenses, assistance and reimbursements relating to Hurricane Isabel; and
- i. **ADDITION:** The Board will consider approving a request from the Department of Emergency Services to apply for a grant from the Department of Emergency Management in the amount of \$5,000, which would be used to cover the cost of instructors to train individuals in the area of emergency response skills (no local match required).

Mr. Walker moved, seconded by Mr. Lee, to approve the Consent Agenda as amended.

Mr. Coates called for voice vote.

Ayes - Coates, Hansohn, Lee, Smith, Walker

Absent - Chase, Rosenberger

Motion carried 5 to 0.

Mr. Bossio read the following resolutions into the record:

**RESOLUTION ENDORSING  
RAPPAHANNOCK RIVER BASIN COMMISSION  
WATER SUPPLY PLANNING PROJECT**

**WHEREAS**, the Rappahannock River Basin Commission has been involved in a multi-year effort to develop a framework for basin-wide water supply and resource planning for the Rappahannock basin; and

**WHEREAS**, the Commission formed the Water Allocation Group in 2000 and directed them to develop a recommendation for the Commission and its members; and

**WHEREAS**, based on the recommendations of the Water Allocation Group the Commission has

made several recommendations to the Governor, the Secretary of Natural Resources, the General Assembly and the State Water Commission about improving water supply planning in the Commonwealth; and

**WHEREAS**, the Commission has developed Guiding Principles for Water Resource Planning the Rappahannock basin; and

**WHEREAS**, the Commission believes that water resource planning in the Rappahannock basin should include the concepts of proactive planning, supply side and demand side management, ground and surface water source development and protection, self-sufficiency and regional cooperation, public involvement and ecological integrity; and

**WHEREAS**, the Commission further believes that the broadest possible array of stakeholders must be empowered to participate from the earliest stages of any water resource planning effort; and

**WHEREAS**, the Culpeper County Board of Supervisors is an active member of the Rappahannock River Basin Commission and encourages the Commission's efforts to improve the spirit of cooperation within the Rappahannock basin in water resource planning;

**NOW, THEREFORE BE IT RESOLVED**, that the Culpeper County Board of Supervisors does hereby encourage the continued efforts of the Rappahannock River Basin Commission and its Water Allocation Group to improve the effectiveness water supply planning in the Rappahannock basin; and

**BE IT FURTHER RESOLVED** that the Culpeper County Board of Supervisors supports the intent of the Rappahannock River Basin Commission's Guiding Principles for Water Resource Planning and encourages all involved in water resource planning in the Rappahannock basin to endeavor to follow these principles.

**DONE** this 5<sup>th</sup> day of November 2003.

By: William C. Chase, Jr., Stevensburg  
James C. Lee, Cedar Mountain District  
Sue D. Hansohn, Catalpa District  
Brad C. Rosenberger, Jefferson District  
Carolyn S. Smith, West Fairfax District  
Steven L. Walker, East Fairfax District

/s/ John F. Coates  
John F. Coates, Chairman  
Culpeper County Board of Supervisors  
Salem District

ATTEST:

Frank T. Bossio, Clerk to the Board

**RESOLUTION OF THE  
BOARD OF SUPERVISORS OF CULPEPER COUNTY, VIRGINIA**

**WHEREAS**, the Culpeper County Board of Supervisors is concerned about a recent ruling of the General Services Administration regarding Rule 41 and the policies that will now govern the .GOV domain name; and

**WHEREAS**, "CulpeperCounty.gov" has been integrated into all phases of County government; and

**WHEREAS**, the CulpeperCounty.gov name was instituted prior to this ruling with approval of the General Services Administration,

**WHEREAS**, the mandated change of the CulpeperCounty.gov domain name will result in

significant expense to the taxpayers of Culpeper County;

***NOW THEREFORE BE IT RESOLVED***, that the Culpeper County Board of Supervisors wishes to express its strong desire to retain the current domain name of CulpeperCounty.gov; and

***BE IT FURTHER RESOLVED***, that this resolution be made part of the minutes of the Board of Supervisors.

**DONE**, 5<sup>th</sup> day of November 2003.

By: William C. Chase, Jr. Stevensburg District  
Sue D. Hansohn, Catalpa District  
James C. Lee, Cedar Mountain District  
Brad C. Rosenberger, Jefferson District  
Carolyn S. Smith, West Fairfax District  
Steven L. Walker, East Fairfax District

/s/ John F Coates  
John F. Coates, Chairman  
Culpeper County Board of  
Supervisors, Salem District

ATTEST:

\_\_\_\_\_  
Frank T. Bossio  
Clerk of the Board

Mr. Rosenberger arrived.

**GENERAL COUNTY BUSINESS**

**RE: WORKFORCE INVESTMENT BOARD**

Dr. Merry Hanson, Director of Workforce Program, Thomas Jefferson Planning District Commission, informed the Board that she represented both Planning Districts 9 and 10. She explained that the Workforce Investment Act had replaced the Job Training and Partnership Act in 2000. At that time, Local Area 6 was created and included all of Planning Districts 9 and 10 (10 counties) and the City of Charlottesville. She complimented Culpeper County for being the most involved in the work of the Workforce Investment Board and acknowledged the participation of Mr. Coates, Mrs. Hansohn, and Mr. Walker, as well as Chip Coleman, Director of Social Services. She stated that the Workforce Investment Board had instituted an electronic data system to track and generate reports on events in the workforce area of each county. She said that the Workforce Investment Board would hold strategic planning sessions on January 6<sup>th</sup> and 7<sup>th</sup> in Culpeper and invited all Board members or their representatives to attend.

Mrs. Hansohn inquired regarding the level of funding provided to Culpeper County for its dislocated workers. Dr. Hanson stated she did not have that information at the present time. She said that funds were provided by the Federal Government with a formula, and approximately \$1 million in grants would come through the Workforce Investment Board to address the huge need for dislocated workers. Mrs. Hansohn pointed out that the funds were to be used to train unemployed workers for different jobs. Dr. Hanson said the Workforce Investment Board would work with the County's Economic Development staff, as well as Chip

Coleman, who was in charge of both the Culpeper and Orange areas, in an effort to retrain the workforce and to entice new businesses to the area.

Mr. Coates asked whether the Workforce Investment Board was notified at the time businesses were closing. Dr. Hanson assured him that she received a copy of the notification businesses were required to send to the Virginia Employment Commission, and she circulated copies to the various localities.

No action was required.

**RE: AGRICULTURAL ENTERPRISE ZONE ACT**

Ms. Mary H. Heinrich, Ag Prospects, briefed the Board on the goal of the Agricultural Enterprise Zone Act. She stated that the Virginia General Assembly passed the Virginia Agricultural Vitality Program in 2000 and instituted the Office of Farmland Preservation, which was aimed at bringing attention to the loss of farmland in the State. She said that 70 percent of farms would change hands in the next decade, and families hesitated to encourage their children to become farmers because of the expense of buying and operating farms. She noted the problem of people entering the industry and buying farms with very old facilities, and it was difficult to obtain new investment and be profitable with facilities that were out of date. She said that State legislators had explored the enterprise zone programs that had been very successful in bringing investment for revitalization into communities, and they learned that farming-related businesses were unable to access those programs because standards were based upon creating new jobs. She stated that a new category was being explored for agriculture-related businesses that would not rely on new jobs. They have been looking at small value-added types of processing, such as farmers' markets; incubator-type projects where a small farming operation might rent a portion of a common commercial kitchen on an as-needed basis; and ways to obtain funds for young farmers to update their farms and equipment. She said that since the enterprise zone program was a tax credit program and the State was moving toward eliminating tax credit programs, they were examining grant programs for accomplishing these activities. She asked the Board to consider including the Agricultural Enterprise Zone Act as part of its legislative agenda during the upcoming General Assembly session.

Mr. Coates stated that Mr. Rosenberger was the Chairman of the Legislative Committee, and he was sure that the Committee would consider this request.

No action was taken.

**RE: RADIO ASSESSMENT REPORT**

Mr. Alan Culpeper, Director of Procurement, informed the Board that the County had hired CTA Communications last year to assist the County in determining its radio system needs. He said that CTA had completed its five-phase needs assessment within the County, which

included a study of the current communications environment, an analysis of alternative system designs, a preliminary system design, radio coverage and propagation maps, and traffic loading and channel requirements. He introduced Kenneth A. Ballard, CTA Project Manager, who would present their findings, and David Pociluyko, CTA Lead Engineer, who was in the audience.

Mr. Ballard stated that CTA studied several design criteria and conducted a coverage analysis to determine whether the current towers were positioned in the right places, the number of channels or radio frequencies that would be needed, and the resulting costs and methods of procurement. He reviewed the County's current out-dated low-band system used by fire and rescue volunteers and the Sheriff's Office, as well as the Town's Police Department's 460 MHz system. He pointed out that the Emergency Operations Center (EOC) was overcrowded, poorly lighted and ventilated, and lacked the best equipment for public safety and law enforcement. He added that the County's four new radio sites at the Landfill, Lignum, Mitchell, and Rixeyville were equipped with a 360-foot tower and designed for optimum coverage for a countywide 800 MHz system.

Mr. Ballard explained that by using an impact analysis flow chart, the County and CTA identified problems and needs and established system attributes and requirements for a future system, and County staff, the Sheriff's Department and Town Police Department worked together to rank these requirements by importance. He said that CTA identified a number of technological solutions to meet these requirements and ranked them as follows: (1) an independent Motorola 800 MHz system, similar to the one Fauquier County and other counties north and east of Culpeper were operating; (2) a Motorola 800 MHz system as an extension of the Fauquier County SmartZone system; and (3) an independent M/A-COM 800 MHz trunked (EDACS) system, which has a different proprietary protocol than the one used by Motorola and would present a major interoperability issue. He reported that the highest ranking was given to the Motorola SmartZone System connected to Fauquier County.

Mr. Ballard reviewed the steps taken by CTA in studying the alternatives for a voice paging system and mobile data system, as well as explaining in detail the preliminary radio system design. He discussed the coverage criteria for 800 MHz land mobile radio system, a low-band 33.82 MHz pager radio system, and 460 MHz UHF band data radio system, as well as the traffic loading analysis.

Mr. Ballard stated that CTA's recommendation was that the County (1) procure an 800 MHz system: simulcast, 6-channel, 4-site analog/digital system; to share the SmartZone controller with Fauquier County; with digital microwave links; and special design considerations at the new Emergency Operations Center (EOC); (2) keep the low-band paging system and add a new paging encoder at the EOC; (3) install a private mobile data system; and (4) secure six

channels from the FCC in the 800 MHz band and modify the existing low-band and UHF licenses. He estimated that costs would range between \$6.2 million and \$6.9 million.

Mr. Ballard suggested three procurement methods for obtaining the radio equipment from Motorola: (1) sole source contract; (2) regional radio system with Fauquier County; and (3) existing contracts in Virginia with local jurisdictions. He stated that he felt a sole source procurement would be the best way for the County to proceed.

Mr. Coates noted that Mitchell was not included in the conceptual radio system design loop and asked what would happen if the system went down in the town of Mitchell and its impact on the Rapidan Fire Department. Mr. Ballard replied that coverage would be reduced, but there would be sufficient coverage within the system to compensate. He stated they tried to get all of the sites in the loop, but a natural impediment of a hill or mountain between Mitchell and the other sites prevented including Mitchell. He pointed out that a directional antenna could be pointed toward the Landfill site to alleviate any lack of coverage.

Mr. Walker expressed his concern regarding holes in the Town's coverage. Ballard stated that issue had been discussed at length, and it was decided that the expense of installing another tower would not be warranted. He said that there was 95 percent probability that the Town would have an acceptable radio signal. He recommended that the system be built with the current towers and test them before a fifth tower was considered. He pointed out that there would be an additional tower at the EOC to accommodate the microwave links.

Mr. Walker asked for an explanation of "95 percent coverage". Mr. Ballard explained that in going through the various tests, the County had been divided into grids with a medium building, a light building, and portable outdoor and mobile coverage areas, and a random sample consisting of a minimum of 200 measurements within each grid was done by a vehicle in motion. They determined that 95 percent minimum coverage would be a requirement that the contractor would have to meet.

Mr. Walker inquired whether the Town and Sheriff's Office had been provided with the same presentation as given to the Board of Supervisors. Mr. Culpeper stated that they had been given the presentation and had been included in the entire process.

Mr. Walker stated that he noted a statement in CTA's report that there was a shrinking window of opportunity for the County to obtain the frequencies in the 800 MHz band. Mr. Ballard stated that time had been critical at the time the report was written, but the County had since presented its request for six 800 MHz channels to the Virginia Board of the FCC. He explained that a growth plan must be submitted with an estimated implementation date and if that was not met within five years, the license would be rescinded. Mr. Culpeper added that the County had been allocated five 800 MHz frequencies and had requested one additional channel



for a total of six.

Mr. Walker inquired whether the County should submit a memorandum of agreement to Fauquier County for shared use of the SmartZone controller. Mr. Culpeper stated that the County had a verbal agreement with Fauquier County, but a memorandum of agreement could not be completed until a vendor had been chosen for the radio system.

Mr. Coates asked whether the additional 150-foot antenna would be shared with others or used solely by the County. Mr. Culpeper stated that it would be solely for County use at the present time because it would be the main tower for microwave links to all of the other tower sites within the County. He added that there would be a probable capability of adding a broadband antenna if the County should decide to do so, but he felt that once the tower was loaded with microwaves, there would be little room for any kind of commercial use.

Mr. Chase arrived.

**RE: SOLE SOURCE PROCUREMENT FOR THE PUBLIC SAFETY RADIO**

Mr. Culpeper asked the Board to consider authorizing staff to conduct and negotiate a sole source procurement with Motorola, Inc. to provide a Public-Safety 800 MHz Simulcast Trunking radio system. He reviewed the scope and need for the system to achieve 95 percent countywide radio coverage to serve not only public safety personnel, but the internal County governmental departments, Town departments, and most importantly the citizens of Culpeper County. He pointed out the positive results to be achieved from a Motorola system, specifically the interoperability with other jurisdictions, and the enhanced radio capabilities to share a backup center with Fauquier County.

Mr. David Maddox, County Attorney, stated that he had been working with Mr. Culpeper and with CTA on the alternatives for procurement, and he concurred with the recommendation for a sole source procurement. He spoke at length regarding the need for interoperability and the availability of such a system. He said that the standard for sole source was "one source practicably available" which did not mean that there was only one manufacturer of this type of equipment. He stated that he based his recommendation on the Board's particular needs and utilization of the product, CTA's recommendation, and the information provided to him by Mr. Culpeper and the Sheriff's Department on the practical aspects of the procurement. He pointed out that while the County had agreements with the surrounding counties, four of the counties had low-band equipment, and only two of the six had an 800 MHz system. He said that Spotsylvania had the M/A-COM system, Fauquier and the other counties to the north had the Motorola system, and Culpeper County had the more interaction with Fauquier County than with the other six mutual aid counties. He noted that CTA had provided him with additional research regarding crisis situations and used September 11<sup>th</sup> as the cutoff date because at that time it

became apparent how important interoperability was. He said that when multiple jurisdictions were involved in natural and criminal catastrophes, the inability to communicate not only hinders the law enforcement function, but actually puts lives at risk. He called attention to a justification contained in one of the reports provided to him that stated: "Under enormous pressures and in the face of danger, all public safety officials must respond together. We should lend every effort to help them to talk as they respond to crisis and tragedy." He said this was the uniform recommendation of virtually all agencies and all states. He added that the Federal Government considered this to be a major criterion, and there may be Federal and State grant opportunities available for maximizing interoperability within the localities' systems. He said that there was no way to achieve interoperability with the M/A-COM system because of geography, and it would involve additional expense. He pointed out that there would probably be a way to achieve interoperability by buying a "box" to put between the M/A-COM system and the Motorola system, but Fauquier County had already purchased the "magic box" which cost approximately \$700,000. He said that significant savings would be realized by doing mutual aid with Fauquier County and, as a result, both counties would have backup systems. He said that based upon his consideration of the criteria, the recommendations of CTA, and the discussions with Fauquier County, he considered this to be a legitimate sole source procurement and recommended that the Board proceed with a sole source procurement to obtain the highest quality system with maximum interoperability at appreciable cost savings.

Mrs. Smith moved, seconded by Mrs. Hansohn, to authorize staff to conduct a negotiated sole source procurement with Motorola, Inc., to provide a Public-Safety 800 MHz Simulcast Trunking radio system.

Mr. Walker asked what the State Police and Spotsylvania County were doing in regard to its radio systems. Mr. Culpeper replied that the State Police would continue with VHF frequency band because they owned so many VHF frequencies, but they had 800 MHz portable radios in the vehicles. Mr. Ballard added that Motorola was in negotiations with the State for a narrow band, all digital VHF system that would operate in a 150 MHz band. He said that the protocol they would use was not the same protocol as recommended for Culpeper County, but the State realized there were a large number of 800 MHz trunked Motorola systems within the State and they were attempting to obtain 800 MHz portables so they would be able to talk on the local systems.

Mr. Bossio pointed out that the State Police used 150 MHz because that frequency allowed greater distance on the open highway. He stated that they wanted also to have the capability to respond to the local incident commanders and be able to meet their requirements and would take an 800 MHz system. He said that the State Police would not be fully

interoperable with the localities, but would be able to talk on an 800 MHz system to the local incident commanders.

Mr. Lee inquired what systems were being used by Madison and Orange Counties. Mr. Culpeper replied that Orange was presently on a 150 VHF system, and Madison was on a low-band system with a 140 MHz range, both in the VHF frequency range.

Mr. Lee stated that communications were a vital component of Homeland Security and inquired whether there were grant funds available. Mr. Bossio stated he and Chief Boring recently attended a Homeland Security conference at which there was a discussion regarding the availability of grants for localities, but the criteria were still being developed. He said that one of the principal issues discussed was that of interoperability. He said "interoperability" had not yet been defined, but a major point was made that systems should be interoperable on a regional basis and the more seamless a locality's interoperability the better chance it had of obtaining grant funds.

Mr. Maddox explained that nothing he said previously was intended to be critical of M/A-COM or Spotsylvania County. He said he was trying to point out that there was a vast difference in the factual circumstances when Spotsylvania County went out for bids in 1996 and awarded the bid in 1998. This was well before interoperability came to the fore with the issues involving September 11<sup>th</sup>.

Mr. Coates called for voice vote.

Ayes - Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Nay - Chase

Motion carried 6 to 1.

Mr. Coates recognized that the Mayor of the Town was present, as well as representatives from Fire and Rescue, the Sheriff's Department, and Town Police and expressed his appreciation for their interest.

Mr. Coates recessed the meeting at 11:35 a.m.

Mr. Coates called the meeting back to order at 11:50 a.m.

### **NEW BUSINESS**

#### **~~DELETE: DEVELOPMENT AGREEMENT – ANGLER BROADLANDS, LLC~~**

~~The Board will consider approving an agreement with Angler Broadlands, LLC for extension of water and sewer services.~~

#### **CONSIDER AFTER CLOSED SESSION AT REQUEST OF COUNTY ATTORNEY:**

#### **WATER AND SEWER AGREEMENT – ANGLER BROADLANDS, LLC/TOWN OF CULPEPER**

### **COMMITTEE REPORTS**

#### **BUILDINGS & GROUNDS COMMITTEE/OCTOBER 14, 2003/8:30 A.M.**

Mr. Lee reported that the Buildings & Grounds Committee met on October 14<sup>th</sup>, but there were no action items to bring forward to the full Board.

See attachment #1 for details of meeting.

**RULES COMMITTEE/OCTOBER 14, 2003/9:30 A.M.**

Mr. Walker reported that the Rules Committee met and had two action items to bring to the full Board.

Mr. Walker moved, seconded by Mrs. Hansohn, to appoint an ad hoc committee to handle Animal Shelter issues and to serve as liaison between the County and the Humane Society.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

Mr. Walker moved, seconded by Mr. Lee, to authorize advertising the proposed \$50 business license for a public hearing. Mr. Walker noted that the State Code allowed a flat fee of \$50 to be imposed annually.

Mrs. Smith stated she had discussed a business license with the Commissioner of the Revenue, and she was concerned that the cost of collecting the fee would cancel out the amount received. She said that imposing a business license as a matter of quality control and oversight of businesses was one issue, but questioned the idea of it being a revenue generator.

Mr. Chase stated that he felt the business tax would be an accountability matter. He asked the Commissioner of the Revenue to give the Board her views.

Mrs. Terry Yowell, Commissioner of the Revenue, stated that the discussion she had with Mrs. Smith was based upon the purpose of the tax. She said that her impression from the Board was that the imposition of a business license was an effort to provide a customer service to the business owners within the County. She said she received inquiries on a regular basis from individuals who asked for a business license. She noted that when businesses tried to open bank accounts, banks asked for their business license and the calls were so frequent that she had developed a one-line statement which she provided that stated that Culpeper County had no business license. She repeated that her impression from the Board was that the County was not looking at this as a method of generating revenue, but as a means to provide customer service.

Mr. Chase asked whether this additional task would present any problems with office space. Mrs. Yowell replied that her office had been experiencing space problems for some time, and she would be asking the Board for assistance.

Mrs. Smith stated her impression after talking with the Commissioner of the Revenue

was that lack of space and personnel to accomplish this service was a problem. Mrs. Yowell agreed that space and personnel issues were part of their discussion, but space needs had been a continuing problem within her office for some time. She said she needed to know whether a business license was seen as a need within the County. She related the many calls her office received from throughout the Commonwealth after Hurricane Isabel inquiring if there was a business license on file for a particular business, and she had to give them her one-line statement. She pointed out that imposing a business license would involve community education, customer inquiries, discovery, compliance, and enforcement, and her office would need help. She added that she would be asking the Board for help in the near future regardless of the business tax.

Mr. Walker stated that when the Rules Committee discussed this particular issue, there was also discussion in regard to the AS 400 system that had the capability for an integrated business license module. Mrs. Dianna Catron, Information Technology Director, informed the Board that she had built an interface into that system, and it would be ready to go after setting the codes.

Mrs. Hansohn stated that it was important for the Board to know what businesses were operating in the County, as well as the importance of having that information available to plan for economic development. Mr. Coates agreed that it was important to have this information and felt the workload might be lessened once the information had been entered into the system.

Mr. Chase moved, seconded by Mr. Lee, to authorize staff to advertise the proposed business license for a public hearing.

Mr. Walker pointed out there was a motion already on the floor.

Mr. Rosenberger pointed out that inquiries would be made regarding whether a particular business was reputable and asked how the County would ensure the reputation of a business through the collection of \$50. Mr. Lee stated that most localities addressed that issue by requiring a license and permit bond.

Mrs. Smith questioned whether there should be a provision requiring a business to be bonded before issuing a business license.

Mr. Chase stated that most businesses carried bonds job by job, but did not have a blanket bond for the entire year because of the expense. He did not think a business license was for quality control, but was a matter of accountability.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Walker

Nay - Smith

Motion carried 6 to 1.

See attachment #2 for details of meeting.

**PUBLIC WORKS COMMITTEE/OCTOBER 14, 2003//11:30 A.M.**

Mrs. Hansohn informed the Board that the Public Works Committee met and heard a presentation by Virginia Broadband.

Mrs. Hansohn moved, seconded by Mr. Walker, that the Board authorize staff to begin negotiations with Virginia Broadband LLC to provide broadband services to the community.

Mrs. Hansohn stated that Virginia Broadband had the capability to bring high-speed internet connections to the community and this would be a real plus for businesses, as well as providing a backup system for E-9-1-1.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

See attachment #3 for details of meeting.

**E-9-1-1 BOARD OF DIRECTORS/OCTOBER 16, 2003/7:30 A.M.**

Mrs. Hansohn reported that the E-9-1-1 Board of Directors met and discussed a CAD upgrade, which would cost \$89,000. She said that the current system was not working properly and spare parts were unavailable. She stated that the CAD Users Group had recommended that the County upgrade its system.

Mrs. Hansohn moved, seconded by Mr. Walker, that the Board move forward with the CAD upgrade.

Mr. Walker inquired regarding the source of funding. Mr. Bossio stated that the County had budgeted approximately \$44,000 in last year's budget in anticipation of the upgrade of the CAD data base, and the balance would be taken from the debt service in the budget this year to pay for the radio system. He stated that the upgrade was necessary and would be transportable to the new Center.

Mr. Coates asked for clarification regarding the source of funding. Mr. Bossio assured him that the \$44,000 had been budgeted for the CAD upgrade, and the additional \$51,900 would come from the debt service for the radio system. He said a maintenance contract was included in these amounts.

Mrs. Valerie H. Lamb, Finance Director, confirmed the information provided by Mr. Bossio.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

See attachment #4 for details of meeting.

**TOWN/COUNTY INTERACTION COMMITTEE/OCTOBER 22, 2003/7:30 A.M.**

Mr. Bossio reported that the Town/County Interaction Committee unanimously recommended that each respective governing body approve combining the Town/County Building Code Appeals Boards.

Mr. Walker moved, seconded by Mr. Lee, to approve combining the Town and County Building Code Appeals Boards.

Mr. Coates stated that this would also have to be approved by the Town Council. Mr. Bossio stated that was correct.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

Mr. Bossio stated that there was a consensus at the Town/County Interaction Committee that a discussion regarding Channel 21's Mission and by-laws be placed on the Committee's agenda. He pointed out that the Board and the Town Council had to approve items to be included on the Town/County Interaction Committee agenda.

Mr. Coates stated that a vote would not be necessary since no opposition had been expressed.

See attachment #5 for details of meeting.

**ECONOMIC DEVELOPMENT REPORT**

Mr. Carl Sachs, Economic Development Director, reported that the Economic Development Advisory Committee was focusing on ways to help agricultural businesses in the community. He said in a meeting with the Ag Committee, it was decided that the two committees would pursue the development of a purchase of development rights program for the Town and County of Culpeper. He noted that an educational workshop would be developed for the Board of Supervisors, Town Council, and Planning Commission members. Mary Heinrich had agreed to chair the workshop and include people from other communities that have been involved in purchase of development rights. He added that he had looked at Pennsylvania's large program that had been very successful in preserving farmland and open space. He said the workshop would hopefully be held the second week in December, or if that was not possible, then after the new year.

**AIRPORT ADVISORY COMMITTEE**

Mr. Bossio stated there were no action items to report from the Airport Advisory Committee.

**ADMINISTRATOR'S REPORT**

Mr. Bossio reported that the Governor had forwarded the schedule for the upcoming holiday season. He called attention to the Board's policy, which had been included with their meeting materials.

Mr. Coates inquired regarding the amount of productivity that could be expected in a half-day of work. Mr. Bossio assured him that County staff would be as productive as possible during the half-days listed. Mr. Coates stated that he wanted to be sure the public was made aware of the County's holiday schedule.

### **CLOSED SESSION**

Mr. Maddox pointed out a typographical error in Item 5 on the Closed Session agenda and said that item should read: "Under *Virginia Code* §2.2-3711(A)(7)" only and not include "(A)(1)" as advertised.

Mr. Walker, moved to enter into closed session, as permitted under the following *Virginia Code* Sections, and for the following reasons:

1. Under *Virginia Code* §2.2-3711(A)(1), to consider: (A) Prospective candidate for re-appointment to the Agricultural and Forestal District Advisory Committee; (B) Resignation from Disability Services Board; and (C) Consideration of Appointment to Joint Town & County Building Code Appeals Board.
2. Under *Virginia Code* §2.2-3711(A)(1) and (A)(7), to discuss with the County Attorney the performance of a specific department with regard to probable litigation by nonemployees.
3. Under *Virginia Code* §2.2-3711(A)(1) and (A)(7), to consult with the County Attorney regarding probable litigation by a former employee.
4. Under *Virginia Code* §2.2-3711(A)(7) to consult with the County Attorney regarding litigation relating to land use of a specific property.
5. Under *Virginia Code* §2.2-3711(A)(7), to consult with the County Attorney concerning enforcement of various County Zoning Ordinances against a specific County landowner and its relation to other potential developments.

Seconded by Mr. Lee.

Mr. Coates called for voice vote.

Ayes – Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

Mr. Coates recessed the meeting at 12:20 p.m. for lunch break.

The Board entered into closed session at 2:00 p.m.

The Board returned to open session at 2:55 p.m.

Mr. Coates polled the members of the Board regarding the closed session held. He asked the individual Board members to certify that to the best of their knowledge, did they certify



that (1) only public business matters lawfully exempted from the open meeting requirements under Virginia Freedom of Information Act, and (2) only such public business matters as were identified in the closed session motion by which the closed meeting was convened, were heard, discussed or considered by the Board in the closed session.

Mr. Coates asked that the record show that Mr. Chase was not present for the closed session.

Ayes - Walker, Lee, Coates, Smith, Rosenberger, Hansohn.

Absent - Mr. Chase.

Mr. Rosenberger moved to dispense with the Rules of Order.

Seconded by Mrs. Hansohn.

Mr. Coates called for voice vote.

Ayes – Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Absent – Chase

Motion carried 6 to 0.

Mr. Walker moved to amend the closed session agenda and add *Virginia Code §2.2-3711(A)(1)*, to consider appointments to the Joint School Board Committee. Seconded by Mrs. Smith.

Mr. Coates called for voice vote.

Ayes – Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Absent – Chase

Motion carried 6 to 0.

Mr. Rosenberger moved to reenter closed session under motion previously stated.

Seconded by Mrs. Hansohn.

Mr. Coates called for voice vote.

Ayes – Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Absent – Chase

The Board reentered closed session at 2:57 p.m.

The Board returned to open session at 3:10 p.m.

Mr. Coates polled the members of the Board regarding the closed session held. He asked the individual Board members to certify that to the best of their knowledge, did they certify that (1) only public business matters lawfully exempted from the open meeting requirements under Virginia Freedom of Information Act, and (2) only such public business matters as were identified in the closed session motion by which the closed meeting was convened, were heard, discussed or considered by the Board in the closed session.

Mr. Coates asked that the record show that Mr. Chase was not present for the closed

session.

Ayes - Walker, Lee, Coates, Smith, Rosenberger, Hansohn.

Absent - Mr. Chase.

**RE: APPOINTMENT TO AGRICULTURAL & FORESTAL DISTRICT ADVISORY COMMITTEE**

Mr. Walker moved to reappoint Barry L. Tingler to serve on the Agricultural & Forestal District Advisory Committee. Seconded by Mrs. Smith

Mr. Coates called for voice vote.

Ayes – Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Absent - Chase

Motion carried 6 to 0.

**RE: RESIGNATION FROM DISABILITY SERVICES BOARD**

Mr. Walker moved to accept with regret Jennifer Windland's resignation from the Disability Services Board. Seconded by Mrs. Smith.

Mr. Maddox asked if the Board wished to include advertising the vacancy as part of the motion. Mr. Walker agreed to add that to his motion. Mrs. Smith concurred.

Mr. Coates called for voice vote.

Ayes – Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Absent - Chase

Motion carried 6 to 0.

**RE: APPOINTMENTS TO THE BUILDING CODE APPEALS BOARD**

Mr. Walker moved that the following individuals be appointed to the Joint Town/County Building Code Appeals Board (BCAD): Wayne Dunn and Donald H. Shuman, Jr., as regular members; Roger L. White and Robert Lehmann, as alternate members; and Michael Armm, as a Joint appointment to be approved by the Town Council. Seconded by Mrs. Smith

Mr. Coates called for voice vote.

Ayes – Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Absent – Chase

Motion carried 6 to 0.

**RE: APPOINTMENTS TO THE SCHOOL CONSTRUCTION OVERSIGHT COMMITTEE**

Mr. Walker moved to appoint the following four (4) members and one (1) alternate to the School Construction Oversight Committee: Carolyn Smith, Larry Aylor, Ron Miller as members; and the 4<sup>th</sup> member, Joe Daniel, subject to his approval; and Michael Armm as alternate. Seconded by Mr. Rosenberger.

Mr. Walker stated that every member and alternate member had accepted the

appointment, except Mr. Daniel.

Mr. Coates called for voice vote.

Ayes – Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Absent – Chase

Motion carried 6 to 0.

The Board returned to the order of the agenda to consider agenda item #7, which was carried over from earlier in the agenda.

**WATER AND SEWER AGREEMENT – ANGLER BROADLANDS, LLC/TOWN OF CULPEPER**

Mr. Maddox explained that the Board would consider approving an Agreement to allow the extension of Town water and sewer service to eight (8) parcels of land controlled by Angler Broadlands, LLC, which would be located north of the high school and called “North Ridge”. He called the Board’s attention to the two-party and three-party agreement, which was the same format used with Richmond American and Lowe’s. He said the two-party agreement was between the Town and Angler Broadlands and would commit to the Town’s providing water and sewer service into the County and the three-party agreement would allow for the County to take over ownership and operation of the water/sewer system at the Board’s discretion.

Mr. Walker asked whether two separate motions would be required. Mr. Maddox informed him that one motion would be required for the three-party agreement since the two-party agreement was an attachment to the three-party agreement.

Mrs. Smith moved, seconded by Mr. Lee, to approve the agreement to allow the extension of Town water and sewer services to eight (8) parcels of land controlled by Angler Broadlands, LLC.

Mr. Coates called for voice vote.

Ayes – Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Absent – Chase

Motion carried 6 to 0.

**ADJOURNMENT**

Mrs. Hansohn moved, seconded by Mrs. Smith, to adjourn at 3:15 p.m.

Mr. Coates called for voice vote.

Ayes - Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Absent - Chase

Motion carried 6 to 0.

Peggy S. Crane, CMC  
Deputy Clerk

John F. Coates, Chairman

ATTEST:

Frank T. Bossio, Clerk to the Board

APPROVED: December 2, 2003

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AT A REGULAR MEETING OF THE CULPEPER COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD ROOM, LOCATED AT 302 N. MAIN STREET, ON WEDNESDAY, NOVEMBER 5, 2003.

**Board Members Present:**     ***John F. Coates, Chairman***  
   ***Steven L. Walker, Vice-Chairman***  
   William C. Chase, Jr.  
   Sue D. Hansohn  
   James C. Lee  
   Brad C. Rosenberger  
   Carolyn S. Smith

**Staff Present:**                     Frank T. Bossio, County Administrator  
   J. David Maddox, County Attorney  
   John C. Egertson, Planning Director  
   Sam McLearen, Zoning Administrator  
   Peggy S. Crane, Deputy Clerk

**CALL TO ORDER**

Mr. Coates, Chairman, called the meeting to order at 7:00 p.m. and welcomed everyone to the meeting.

**CITIZEN FORUM**

Mr. Coates opened the Citizen Forum and called for comments on any item that was not on the agenda.

Ron Bird, Jefferson District, addressed the Board regarding the need for an Ordinance to require a Historic Significant Assessment and a public hearing before a building could be destroyed. He recently witnessed an old farmhouse and wooden school building being

destroyed, both nearly 200 years old. He presented each Board member with a stone from the remnants of the foundation and asked that the stone be a reminder that a future could not be built if the foundations of the County's heritage were destroyed.

Bob Burnett, President of Concerned Culpeper Citizens, spoke on the lack of communication between CCC and an applicant and the applicant's legal counsel relating to a case that was on agenda. He referenced a letter dated February 20, 2003 from a local counsel for Centex Corporation requesting a meeting with the applicant and consultant to discuss fiscal and other analysis regarding the Clevenger's Corner rezoning. He said that since CCC was a nonprofit corporation, they responded that CCC's registered mission was to provide public information regarding County's development and for CCC to engage in private discussions would comprise their mission. He said CCC had taken exception to repeated phrases in a memo dated October 20, 2003 regarding CCC's repeated refusals to meet with consultants and applicant. He stated that CCC has received no communication from the applicant or his representative since the letter of February 20, 2003. He felt it was appropriate to respond publicly as this applicant and representatives have on more than one occasion publicly referenced their response as a refusal to cooperate. He said that CCC does not have an agenda, does not engage in individual issues from either a positional or a political frame of reference, and confines its analyses to purely objective and direct points of view.

Aaron Greso, West Fairfax District, addressed the shortage of commercial buildings available in the County. He said that he was aware of an individual who had inquired about a 20,000 to 30,000 square foot building to possibly relocate in the County.

With no further comments, Mr. Coates closed the Citizen Forum.

#### **AGENDA ADDITIONS AND/OR DELETIONS**

Mrs. Smith moved, seconded by Mr. Walker, to hear the agenda as published.

Mr. Coates called for voice vote.

Ayes – Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

#### **GENERAL COUNTY BUSINESS**

##### **RE: FINANCING CALENDAR FOR COMMUNITY COMPLEX AND DEBT PLAN**

Mr. Bossio recapped that the Board recently approved to move forward with the Community Complex and Mr. David Rose would review the entire debt structure and the School Board's request. He said it would encompass capital projects spending only and debt plans into the future. It did not include any operational expenditure.

David Rose, Davenport and Company, made a power point presentation that addressed a calendar of events for the Community Complex and the County's debt plan. He stated that he

anticipated finalizing the financing on the \$3.50 million Community Complex by the end of the year. He also stated that it was the intent for the County to be “bank qualified” so it would obtain the lowest cost of money. He further stated that he would be presenting a resolution at the December 2<sup>nd</sup> Board of Supervisors meeting that would contain the fixed interest rates in the resolution based on solicitation of bids from local and regional financial institutions. He noted that approximately \$100 million in capital projects would be considered by the Board. There was approximately \$53 million in debt outstanding, and he anticipated that amount would double over the next several years. He reported that the second project was the Radio System and estimated to cost \$9 million. That project was anticipated to be completed in the summer of 2004. He said that both the Community Complex and Radio System were in progress and moving forward, and a number of different projects were added incrementally, including an elementary school, a high school and middle school needs. He reviewed in detail the timing of funding for the school needs and noted what the issue would be if the construction of the new high school would be in FY 2005 or 2006. Mr. Rose reviewed in detail the key assumptions for the capital improvement program funding, CIP debt affordability, and summary of incremental tax impact. He said that at no time could there be more than \$20 million debt outstanding. He said that certain monies would be targeted to help defray the impact of the amount of debt. A Capital Projects Fund was being established and the focus was to add \$1 million in 2004 and \$500,000 per year in fiscal years 2005 and 2007, which would be used to help the debt service peaks. The County had a series of debt policies and, at the present time, County staff was reviewing and updating those policies.

Mr. Bossio pointed out that on case 5 on page 6, the words “Middle School” should be stricken. It should read to renovate the old High School only.

Mr. Coates thanked Mr. Rose for his informational presentation.

No action was taken.

#### **NEW PLANNING COMMISSION BUSINESS**

**CASE NO. U-2029-03-1.** Request by John Kim, AIA for approval of a use permit for the construction of a religious retreat center. The property is located on Route 229 in the Jefferson Magisterial District and contains 100.75 acres. Tax Map/Parcel No. 21/73A.

Mr. Sam McLearen, Zoning Administrator, reported that a letter had been received that the case had been withdrawn and no action was necessary.

**AMENDMENT TO ARTICLES 17 AND 9 OF THE ZONING ORDINANCE.** The Board of Supervisors will consider amendments to the Zoning Ordinance which would delete Section 17-5 concerning the Infrequent Land Application of Biosolids and add a new Section, Section 9-6, which would provide for the regulation, testing, and monitoring of Biosolids. He said that the

Planning Commission had considered the case and a public hearing was conducted. The Planning Commission found this amendment to be appropriate and the Planning Commission was recommending to the Board of Supervisors that this amendment be adopted.

Mr. John Egertson, Planning Director, informed the Board that the amendments to the Ordinance were recommended in light of legal limitations which conflict with the County's current Ordinance and some new programs at the State level regarding Biosolids. The Ordinance had been advertised for a public hearing and distributed to the Virginia Department of Health and to Recyc and Synagro, which were the two hauling companies that operated in Culpeper County, for their comments. At this time, no objections have been expressed by either of the agencies. He said the ordinance was based upon a model drafted by the Virginia Association of Counties, and if adopted, the effect of this ordinance amendment would be as follows:

- Land application of biosolids will require a state (VDH) permit only, no County permit.
- Prior to issuance of a state permit, the County will have an opportunity to review and comment, and object or request conditions if there are concerns.
- The County will receive copies of all documents submitted to the State.
- Land application will be permitted only in A-1 and RA zoning districts, or for the purpose of mine reclamation. There will no be requirements that land be in an Agricultural and Forestal District.
- The County must be notified at least two weeks prior to any land application by the land applier.
- The County will be eligible to participate in a reimbursement program to fund the cost of application review, testing and monitoring.

Mr. Egertson stated that there was a part-time Biosolids monitor employed by the County that would be paid for in the future by State reimbursements. Staff recommended adoption of the Ordinance amendment and it was ready for the Board's consideration.

Mr. Chase asked what the County's involvement would be with the proposed amendments. Mr. Egertson said that the County would review the applications prior to the State permit being issued and, after the State permit was issued, the County would continue to visit the sites. The County would continue to check for set backs, buffering and to test at random after land application. He said that the County use permit was being eliminated and the Agricultural and Forestal District requirement.

Mr. Coates asked how the adjacent property owners would be notified. Mr. Egertson replied that the County would not notify the adjacent property owners; the hauling company would post the sites. He further pointed out that under the County's current ordinance, adjoining

property owners were notified of a use permit application prior to the public hearing process, but after that point they were not notified. He said it could be years before a land application would actually take place and he felt it was not a major change from what was happening now.

Mr. Coates opened the public hearing and called for public hearing

Aaron Greso, West Fairfax District, expressed concern with the enforcement and asked whether penalties would be imposed by the State if the permit were violated.

With no further comments, Mr. Coates closed the public hearing.

Mr. Coates asked Mr. Egertson to address Mr. Greso's question. Mr. Egertson said he thought there were some stiff penalties, but he was not certain what they were. He said the State enforced the regulations and the haulers were held to strict compliance standards, but the haulers in the County hired a third party company to ascertain that they were in compliance when applying biosolids.

Mr. Coates asked Mr. Egertson whether these amendments would eliminate the County's Biosolids Monitor. Mr. Egertson replied that it would not eliminate the monitor's position. The hauling companies paid for the monitor through an agreement and each respective company would nullify those agreements, and the monitor would be paid through a reimbursement program at the State level.

Mr. Walker asked what was the difference in exceptional quality biosolids and sewer sludge or biosolids as noted that on page 2 in the definition section. Mr. Egertson replied that exceptional quality biosolids were generally dried and could be purchased at any Lowe's or Home Depot.

Mrs. Hansohn moved, seconded by Mr. Rosenberger, to accept the Planning Commission's recommendation and adopt the proposed amendment.

Mr. Walker said he could not support the motion and that he understood why this was being done, but he felt that biosolids would be a major concern to the County in the future.

Mr. Coates said that the County would have to rely on the monitor to protect and to make certain that the State was doing what they are suppose to be doing.

Mr. Coates called for voice vote and a show of hands.

Ayes – Chase, Coates, Hansohn, Rosenberger, Smith

Nays – Lee, Walker

Motion carried 5 to 2.

**ADDITION TO THE RILLHURST FARMS AGRICULTURAL AND FORESTAL DISTRICT.**

Request by Joseph Lawrence Levy to add 605.0 acres to the Rillhurst Farms Agricultural and Forestal District. The property is located off Route 522 in the Salem Magisterial District. Tax Map/Parcel 28/16.



Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing were held. He said the Planning Commission concurred with the Agricultural and Forestal District Committee that this property, based on the agricultural value of the property, was an appropriate addition to the district. The Planning Commission was recommending to the Board of Supervisors that this addition to the Rillhurst Farms Agricultural and Forestal District be approved and that ordinance modifying the district be adopted.

Mr. Egertson displayed a tax map that highlighted the location of the property being considered and informed the Board that this had been reviewed by the Agricultural and Forestal District Committee and recommended that it would be a valuable addition. It was recommended for approval and ready for the Board's consideration.

No one was present representing the application.

Mr. Coates opened the public hearing and called for public comments.

There were none.

Mr. Coates closed the public hearing.

Mrs. Smith moved, seconded by Mr. Rosenberger, to accept the Planning Commission's recommendation and approve the addition to the Rillhurst Farms Agricultural and Forestal District.

Mr. Coates called for voice vote.

Ayes – Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

**WITHDRAWAL FROM THE BRANDYWINE AGRICULTURAL AND FORESTAL DISTRICT.**

Request by E.V. Baker for withdrawal of 114.7 acres from the Brandywine Agricultural and Forestal District. The property is located off Route 522 in the Cedar Mountain Magisterial District. Tax Map/Parcel No. 63/30.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing were held. The Planning Commission concurred with the Agricultural and Forestal District Committee that based on the agricultural value of the property, that it was not an appropriate withdrawal from the district. He said that the Planning Commission was recommending to the Board of Supervisors that this withdrawal from the Brandywine Agricultural and Forestal District be denied.

Mr. Egertson displayed a tax map that highlighted the location of the property being considered and informed the Board that it was being recommended for denial by the Planning Commission and Agricultural and Forestal District Committee. Neither agency found a sufficient justification for withdrawing the property, and both noted that the district would expire in September 2004 and could be withdrawn at that time. He stated it was his understanding that

Mr. Baker wanted to create a 43-acre parcel that was currently leased to an entity that was constructing a greenhouse operation. The Planning Commission also noted that it was a 43 acre parcel, and had it been 50 acres, it would be a by-right division within the district without having to remove the acreage. He said that the Planning Commission did not find sufficient justification and it was recommended for denial.

Mr. Coates asked whether Mr. Baker had been made aware of the 50 acres. Mr. Egertson replied that he had been.

Boyd Carpenter, representing the application and Mr. Baker's son-in-law, informed the Board that Mr. Baker decided to sell 44 acres to help supplement his farming income for the upcoming year. He has met with the potential buyer, only 44 acres was what the buyer wanted, and both parties agreed on the 44-acre parcel. Mr. Carpenter stated that Mr. Baker did not want to remove the entire 114 acres out of the Agricultural and Forestal District, but it was his understanding the entire 114 acres must be removed in order to remove the 44 acres. Mr. Baker intended to reapply to add the remaining acreage back into the district and keep as much of the acreage in the district as possible. He felt it would be desirable to remove the 44 acres, rather than the 50 acres, to keeping more acreage in the district. He said that Mr. Baker paid \$4,500 to have the land surveyed based upon the 44 acres the two parties agreed upon, and they would have to pay to have it resurveyed if 50 acres were removed. The agriculture use of the property would not change. He said if the request was denied, Mr. Baker would have to borrow the money to plant his crops, but if the Board approved the 44 acres to be sold, Mr. Baker would not have to borrow the money. Mr. Carpenter asked for the Board's favorable decision to allow the 44 acres to be sold. Mrs. Hansohn asked whether the potential buyer was going to construct a greenhouse. Mr. Carpenter replied yes. It was noted that a greenhouse was agriculture use and the 44 acres would remain in agricultural use.

Mr. Coates opened the public hearing and called for public comments.

There were none.

Mr. Coates closed the public hearing.

Mr. Chase said he felt because the owner was having financial problems that this was a hardship case. He believed if the Board accepted the Planning Commission's recommendation and denied the request, it would discourage other farmers from applying to be a part of an agriculture and forestal district.

Mr. Lee stated that the Board heard a presentation this morning on agriculture tax credits and the Board was asked to support the bill, and the discussion centered around how difficult it was for farmers to make a living farming. This applicant was asking to remove the entire 114 acres, of which he wanted to sell only 44 acres so he would not have to borrow the

money to plant the crops. He said he understood and respected the Planning Commission's decision, but he disagreed with their recommendation.

Mr. Lee moved, seconded by Mr. Chase, to approve the request to remove the 114 acres from the Brandywine Agricultural and Forestal District.

Mr. Rosenberger said this might be a hardship and he would support the motion with some reservation.

Mr. Coates called for voice vote.

Ayes – Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

**CASE NO. U-2030-03-1.** Request by Scott D. and Sue Harmon for approval of a use permit for a Package Sewage Treatment System for a single-family dwelling. The property is located off Route 669 in the Stevensburg Magisterial District and contains 125.83 acres. Tax Map/Parcel No. 44/3.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing were held. The Planning Commission found this application to be consistent with Article 17 of the Zoning Ordinance and Chapter 14 of the County Code. He said that the Planning Commission was recommending to the Board of Supervisors that this use permit be approved.

Mr. Egertson displayed a tax map that highlighted the location of the property being considered and informed the Board that it was a 10-acre parcel to be created by a family division based on the use of the proposed package treatment system. The proposed system would be a discharging system and would discharge into Flat Run, which had a significant run across the parent tract before it left the property. The Health Department found it to be an acceptable proposal and it was recommended for approval for a period of five (5) years.

Mr. Harmon, applicant, was present representing the case.

Mr. Coates opened the public hearing and called for public comments.

There were none.

Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mr. Walker, to accept the Planning Commission's recommendation and approve the use permit for a period of five (5) years.

Mr. Coates called for voice vote.

Ayes – Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

**CASE NO. U-2031-03-1.** Request by Jeffrey H. and Cynthia C. Scott for approval of a use permit for a Package Sewage Treatment System for a single-family dwelling. The property is

located off Route 652 in the Stevensburg Magisterial District and contains 25.43 acres. Tax Map/Parcel No. 51/43.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing were held. The Planning Commission found this application to be consistent with Article 17 of the Zoning Ordinance and Chapter 14 of the County Code. He said that the Planning Commission was recommending to the Board of Supervisors that this use permit be approved.

Mr. Egertson displayed a tax map that highlighted the location of the property being considered and informed the Board that it was a 25 acre parcel and the Health Department had verified that the property would not support a traditional drainfield system. He said it was an existing parcel that pre-dated zoning and was unbuildable without the use of an alternate treatment system. The proposed system was a discharging system and would discharge into Dry Run. The Health Department had found it to be an acceptable proposal and it was recommended for approval for a period of five (5) years.

Mr. Scott, applicant, was present representing the case.

Mr. Coates opened the public hearing and called for public comments.

There were none.

Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mr. Lee, to accept the Planning Commission's recommendation and approve the use permit for a period of five (5) years.

Mr. Coates called for voice vote.

Ayes – Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

**CASE NO. U-2032-03-1.** Request by William Hazel for approval of a use permit for an Automobile Service/Repair business. The property is located on Route F721 in the Stevensburg Magisterial District and contains 8.00 acres. Tax Map/Parcel No. 42/40A (Portion).

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing were held. The Planning Commission found this rezoning request to be consistent with Article 17 of the Zoning Ordinance. He said the Planning Commission was recommending to the Board of Supervisors that this use permit be approved based upon the following conditions:

1. A site plan amendment shall be submitted and approved in accordance with Article 20 of the Zoning Ordinance prior to commencing operation.
2. All requirements of the previous site plan for this property shall be met prior to commencing operation.

3. No inoperable vehicles may be stored on the property except inside of an enclosed building; temporary placement of such a vehicle for service onsite for up to 72 hours shall not be deemed storage. No outside storage of tires, auto parts or other items are permitted other than placement of such items as debris in refuses containers depicted and approved as part of the aforementioned site plan amendment.

Mr. Egertson displayed a tax map that highlighted the location of the industrial zoned property being considered and informed the Board that the property was located just off the intersection of Route 29/666 on the existing service road. He said Board had recently considered a similar use permit to allow car repair in a light industrial zone in the same building. This building was constructed by right, as a warehouse building, and it was being proposed to be used by two or more tenants doing car repair. These conditions were identical to those imposed on the first tenant and the Planning Commission felt by imposing the same conditions, the use could be tracked. The owner has indicated that he would submit a single site plan to accommodate both businesses. He said it was recommended for approval and it was ready for the Board's consideration.

Mr. Hazel, applicant, was present representing the case.

Mr. Coates opened the public hearing and called for public comments.

There were none.

Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mr. Lee, to accept the Planning Commission's recommendation and approve the use permit with conditions stated.

Mr. Coates called for voice vote.

Ayes – Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

**CASE NO. Z-389-03-1.** Request by D&L Properties, LLC to rezone 5.542 acres from R-1 (Residential) to LI (Light Industrial). The property is located on Route 666 in the Stevensburg Magisterial District. The Culpeper County Comprehensive Plan designates this area as Industrial. Tax Map/Parcel Nos. 42/34B, 35, 35A, 35B.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found this application to be consistent with the Comprehensive Plan. He said that the Planning Commission was recommending to the Board of Supervisors that this rezoning request be approved with the associated proffers.

Mr. Egertson displayed a tax map that highlighted the location of the proposed rezoning with an indication of the existing industrial zones. He said the applicants were the owners of the

light industrial zoned property that housed Rogers Fleet Service. He indicated that the property was directly adjacent to four, long-existing lots of approximately an acres each and currently zoned R-1 (residential). The applicants would like to obtain these properties and have the lots zoned industrial for multiple future industrial users, and perhaps expansion of their own business in the future. He said there were proffers attached to the application that addressed screening at the time of site plan; the willingness to hook up to public water and sewer when available; limiting the maximum density to four lots; eliminating a number of uses otherwise permitted in the LI zone; and utilizing a single access (the existing access into Rogers Fleet Service) to serve the additional four lots which would create less congestion on Route 666. He stated that the rezoning request had been reviewed and approved by VDOT, the staff was comfortable that this complied with the Comprehensive Plan, and it was recommended for the Board's approval.

Mrs. Hansohn inquired whether there were any houses on the adjacent lots. Mr. Egertson stated there was a house on abutting lot 41.111B, and he believed there was contemplation to build on the other lots. He pointed out that these four lots were acquired by this applicant in an effort to extend the industrial use that was planned for that area and was compatible with the existing uses, but he felt there would probably be several houses on the remaining lots.

Mrs. Hansohn asked whether the owners with the one house had been notified. Mr. Egertson stated that they had been.

Mr. Coates asked for confirmation that the present Comprehensive Plan showed a road. Mr. Egertson stated that it did. He noted that he had included a map in the Board's package that showed the current Comprehensive Plan alignment of a future road and a potential change to that alignment. He explained that the Comprehensive Plan contained a plan to construct a diamond interchange at this location and eventually to connect that interchange through this planned industrial property and up to where McDevitt Drive was now being extended. He said in talking with VDOT about the fact that the road was shown going directly through the parcels in question, VDOT felt that the interchange would have to be moved farther north and these four properties ultimately would not be affected. He stated this was discussed with the affected property owner, and the Planning Commission was well aware of this issue, but it was concluded that it would be appropriate to proceed with the rezoning with the understanding that the road realistically could not be located on these parcels.

Mr. Coates asked whether there was any discussion on further right-of-way for Route 666. Mr. Egertson stated there had not been, but he believed there was a turn lane under construction across the frontage to access the existing Rogers Fleet Service entrance, which

would serve these four lots. He said that VDOT did not feel any additional right-of-way would be necessary.

Mr. Coates inquired whether there was a plan to make Route 666 into a divided roadway when the interchange was built. Mr. Egertson stated he did not believe so, but it had not been determined as yet. Mr. Coates asked whether VDOT was aware of this. Mr. Egertson stated that he had a specific meeting with VDOT to review the issue. Mr. Coates expressed his concern that additional right-of-way might need to be purchased at a later date. Mr. Egertson stated there was always a concern about having right-of-way in any rezoning, but the conclusion was that these four parcels would not be affected by the need for right-of-way. Mr. Coates stated that the interchange was important to the County and it should be at the top of VDOT's priority list.

Mr. Bruce Clark, attorney for the applicants, stated it was his understanding from Joe Coppedge, who has been communicating with VDOT, that there was already a wide right-of-way running in front of both of these properties. He said that he attended the meeting which VDOT had at Brandy Station last month and learned that the Route 666 diamond interchange was VDOT's number one priority in Culpeper. He added that VDOT was very positive of what they had at this location and what they would need, and they had expressed the desire not to go through these parcels, but to relocate Route 666 north of this site.

Mr. Coates stated he appreciated Mr. Clark's comments, but his concerns were that turn lanes would be needed on the interchange on Route 666. Mr. Clark pointed out that there was already a right-hand turn lane on the property. He said that VDOT had an opportunity to look at this and they had not expressed any of these concerns.

Mr. Walker asked whether this would be considered an upzoning. Mr. Clark replied "that it is my finest belief that it is an upzoning." He explained that his clients had experienced difficulty in trying to set up a small business due to the lack of small parcels of industrial land that was readily available for a startup business or a small business to provide opportunities for ten to fifteen employees. He added that these were the types of parcels that were needed in the right locations.

Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mr. Walker, to accept the Planning Commission's recommendation and to approve the request for rezoning with the associated proffers.

Mr. Coates asked about public water and sewer. Mr. Egertson stated that the proffer offered indicated that the applicant would connect to public water and sewer within six months of its availability. Mr. Coates asked whether the land perked. Mr. Egertson stated that it did.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

Mr. Coates recessed the meeting at 8:15 p.m.

Mr. Coates called the meeting back to order at 8:25 p.m.

**CASE NO. Z-383-02-1.** Request by Centex Homes, Kenneth Thompson, Minnie Thompson, Newwales, L.C., South Wales Utility, Inc., and South Wales, L.P. to rezone 1,754.07 acres from A-1, RA, R-1 and R-2 to PUD (Planned Unit Development). The property is located on Routes 211, 229 and 621 in the Jefferson Magisterial District. The Culpeper County Comprehensive Plan designates this area for commercial, low and medium density residential development. Tax Map/Parcel Nos. 7/1, 1A, 1B, 1C, 2, 2A and 8/1 (Portion), 1B.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found this application to be inconsistent with the Comprehensive Plan. The following deficiencies were found with this request:

Transportation Issues:

- The potential relocation of Route 622 needs to be further addressed.
- The westernmost, signalized connection with Route 211 must be located an appropriate distance from Route 229. This primary entrance road must be designed to reflect the village concepts in the Comprehensive Plan.

Water

- The hydrogeological study underway should be finalized and indicate acceptable results with regard to quality and quantity prior to rezoning approval.

Water/Sewer Agreement

- The Water and Sewer Agreement which would facilitate County ownership and operation of water and sewer facilities should be ready for Board of Supervisors' approval prior to or simultaneous with rezoning approval.

Design/Land Use Plan

- Plans should be revised to improve the village core design. Options for a conference center or dwelling units do not allow for analysis of the final design.
- Two-story structures should be assured.
- Housing types other than single-family detached should be incorporated.
- The design standards are far too general in nature.

Density



- The project, with options for second-story residences in the commercial area, and with certain areas excluded from this application, exceeds the density target recommended in the Comprehensive Plan.

Mr. McLearen said that the Planning Commission was recommending to the Board of Supervisors that this rezoning request be denied.

Mr. Egertson informed the Board that he had received a letter dated October 27<sup>th</sup> from Mr. Butch Davies stating that the applicant would like to make a presentation at the public hearing. The applicant asked that after the Board had heard from the public that the case be postponed until the Board's December 2<sup>nd</sup> meeting, at which time the Board would act upon the application and proffers. He said that exhibits and proffers, including a letter from John Foote addressing the proffers, were attached to the applicant's letter.

Mr. Egertson further stated that each Board member had received a full package of materials as a part of the rezoning request submitted by Centex Homes, Ken Thompson, and others for a Planned Unit Development that would accommodate approximately 800 dwelling units, 1,800 square feet of retail development, and 250,000 square feet of office and employment space. He stated that the application as presented to the Planning Commission on October 8<sup>th</sup> had been recommended for denial, but new application materials had been submitted on October 24<sup>th</sup>, which included a revised land use plan, revised proffers, consultant memoranda, revised fiscal impact analysis, environmental impact assessment, revised traffic impact study, a commercial market analysis, phases one through three of a hydrogeographic report, and the Clevenger's Village design guidelines. He pointed out that each Board member had received copies of these documents, some of which had not changed since the Planning Commission's consideration, but many had. He noted that at this time, staff and the reviewing agencies had not completed their reviews, but the applicant had requested that the application be postponed until the Board's December meeting.

Mr. Egertson recalled, as a matter of background for the Board, that the application had been filed on October 31, 2002. During the Planning Commission's review process, the applicant requested delays totaling 180 days and, if action was delayed this evening, the request for delays by the applicant would total approximately 210 days. The County has one year to act on a rezoning application, with that year being extended by each applicant-requested delay. Under the law, this means that the Board would have until March or April 2004 to act on this application. He noted, however, that the applicant had made it clear for the last several months that a decision would be required by the end of 2003. He said that a final staff report to address the most recent changes to the application was not yet complete, but the

applicant had prepared a presentation for the Board if it wished to hear it this evening; after which, the public hearing which had been duly advertised could be held. He recommended that the hearing be continued until December 2<sup>nd</sup> and action be delayed to allow staff time to fully review the new materials. He pointed out, however, that it was within the Board's authority to take action tonight.

Butch Davies, attorney representing the applicant, informed the Board there were a number of individuals present who had helped prepare the various studies submitted. He expressed appreciation to the County staff for its work and for taking time on a number of occasions to meet with members of the Clevenger's Village team to allow them to respond to concerns. He displayed a plan of the actual 1,800 parcel and stated he would provide an overview of the status of the project. He noted that the parcel had gone through a signification reduction in size since the concept plan was originally submitted June 15, 2001, the Clevenger's Corner Village Center plan approved in January 3, 2002, the PUD submitted October 31, 2002, and the revised submission prepared June 1, 2003. He pointed out that the plan had evolved as comments were received from citizens in various meetings, and the applicant had tried to address each of the specific issues that have been raised. He stated that various individuals would be addressing the Board regarding:

Land use plan – Bill Neville, Bowman Consulting

Transportation plan – Dick Keller, Kellerco

Environment concerns – Loretta Cummings, Williamsburg Environmental Group

Water and sewer agreement – David Maddox, County Attorney

Waste water treatment – Mac Bugg

Groundwater – Jamie Emery, Emery and Garrett Groundwater.

Water treatment – Darrell Rickman, Rickman Engineering

Market study – Patrick Phillips, Environmental Research Associates (ERA)

Fiscal impact study – Ralph Bowden, Bowden Consultants

Proffer summary – John Foote

Closing remarks – Steven Plescow, Centrex Homes

Mr. Davies noted that the applicant had tried to respond as issues had been raised through the Planning Commission process, and the Planning Commission's recommendation to the Board had been extremely helpful because it targeted the specific areas that remained to be addressed.

Bill Neville stated that the plan had seen some significant revisions in the last year, from a proposal to rezone the property from its existing rural and residential zoning categories to a

PUD District in an endeavor to create a new Virginia village. He said the property represented a unique opportunity to plan for over 1,700 acres of area which had been consolidated from many parcels and, at the same time, conform to and implement the Comprehensive Plan. He stated that the plan had been well considered and tested over the last couple of years, while defining what actually constituted a village versus a town. He noted that the applicant had responded to input from the community, the Planning Commission, and County staff.

Mr. Neville discussed how the applicant had adopted a village center plan that complied with the Comprehensive Plan land use recommendations. He indicated the areas on the site that were buildable for residential uses, the commercial districts located at the crossroads of Routes 211 and 229, and the open space for recreation around the existing streams and South Wales golf course. He pointed out that the new plan proposed the extension of utility services to 100 units being clustered as a rural cluster, and to a site proposed as a school campus for both an elementary school and a middle school. He said that by expanding the utility boundary, they were able to set aside over 700 acres of land at the south end of the property which would be permanently protected under an open space easement. He explained the process of trying to appropriately site commercial and business uses at a crossroads location, identifying those stream and river resources that need to be protected, providing open space, while ensuring that the residential development potential sites were tightly clustered and located in the areas that minimize the environmental disturbance. He added that some elements had been added that were suggested during the community planning process as school sites, a library site, and day care center. He said that they had provided for the necessary utility systems for the entire village area – a waste water system, a water system, and power utilities. He estimated that over 50 percent of the site had been set aside for permanently protected open space use, 40 percent in residential neighborhoods, 4 percent for commercial, and 4 percent for civic uses.

Mr. Neville explained that in the process of creating a village, it was important to define a land use concept first and then implement it through additional detail. He said they had proposed a main street environment along an east-west strip, an appropriate location for commercial and employment districts (25 acres or 250,00 square feet), and residential communities within a walkable neighborhood radius of one-quarter to a half-mile. He described five different neighborhoods, which would be located within the village center, in the golf course neighborhood, around the existing historic manor house, around the community center, and in the rural clustering. He noted that the school campus had received significant support from the School Board staff and explained the schools would be located side-by-side close to the community center neighborhood. He said that the 700-acre parcel of open space was being

proffered as a conveyance to the County first; otherwise, they would look to find a conservation partner to help the homeowners' association maintain the open space.

Mr. Neville continued with a detailed description of the key elements of the village center area and described the design guidelines for the different systems to be created within the village for utilities, roads, and open space. He said these specific design criteria were not covered by current County ordinances and codes and had been suggested as standards to help in implementing the village plan, but they were not intended to replace the current County codes and ordinances. He asked for the Board's support in promoting the applicant's commitment to the Culpeper community life by creating a sustainable pattern of village development.

Dick Keller discussed in detail the traffic and impact study which Kellerco did for the site. He said it not only included the Clevenger's village, but the entire village center plan, and it analyzed the years 2005, 2008, 2010, 2018, which was the buildout year for Clevenger's village, as well as 2028, ten years after the buildout coverage in the village. He indicated the existing signal on Routes 211/229 and the proposed signal lights at the major access in/out of the site on Route 211, 1000 feet east of the existing signal; at the Old Bridge Road location; and at the access into the village center at Route 629, all of which would be done in stages. He said he had discussed the technical complexities of the analyses with VDOT and he was confident they would be able to satisfy VDOT's two levels of service criteria.

Loretta Cummings, Williamsburg Environmental Group, displayed a picture of the land without any houses on it. She described the various studies that had been done for Centex, beginning with the identification of the rivers, streams and lakes, and later on soils, hydrology and vegetation, and further studies would be done as the project moved forward and they would be coordinated with the Corps of Engineers, DEQ and other State and Federal environmental agencies. She said they had recommended, and Centex had agreed, to maintain all of the stream corridors and to buffer all of the streams throughout the project, not just the river. She said there would be a 1000-foot no build area along the river, which was the most extensive buffer she had seen a project, and all of the smaller streams would have their own buffers. She noted that the steep slopes would be preserved and noted the proposed 700-acre preservation area. All of this adds to the environmental integrity of the project.

Ms. Cummings stated that she had coordinated with the Department of Historic Resources on the significance of the property and had hired an archaeology group to do a preliminary soil study. She noted that there was a manor house located on the property, which would be preserved throughout the whole process. She reported that DHR was not aware of

any significant happenings on this piece of property or of anything remaining on the property such as camp sites, foundations, gun batteries, or anything that would have a legacy tie to the land. There was nothing on the land that should be preserved as a Civil War park or memorial.

Ms. Cummings stated that storm water management, water quality management, etc., were important environmental aspects on a property this size, and the river would be protected at all costs. She said that they were proposing a lower impact development (LID) which had never been tried in Culpeper County. LID will be used extensively and is the most progressive stormwater management available at the present time. She stated that the golf course would be maintained and be a part of the integrated test management plan (IMP) which would help monitor the chemicals used, etc.; and the applicant was dedicated to not using any of the wells to water the golf course. She complimented the applicant for starting the environmental planning process very early on in this project.

Mr. Davies stated that he was speaking on behalf of Jim Ryan, the attorney from Troutman Sanders who had been working with Dave Maddox, John Egertson, and Paul Howard, regarding the main points that had been the focus of the water and sewer agreement. He said that the language to implement the agreement had basically been agreed upon, and some details remained to be ironed out. He pointed out that the centerpiece of the agreement was that the water and waste water facility would be turned over to the County and the facility would have a 20 percent excess capacity to ensure that adjoining property owners would have access. He said one of the real challenges was to make sure that in meeting the requirements of the village center under the Comprehensive Plan that the utility infrastructure was in place and was sized sufficiently to give the County the ability to respond to other needs. It was important to note that the Master Water and Sewer Plan would require County approval before the project could be presented for adoption.

Mac Bugg, who has helped to design waste water treatment facilities in many Virginia towns and cities, described the proposed treatment plant for the project. He pointed out that the waste water treatment plant was located in a well-buffered remote area – approximately 1000 feet back from the Rappahannock River, in a well-buffered area, and approximately 700 to 800 feet from the nearest proposed living use. He noted that the discharge from the plant would be 856,000 gallons per day. He discussed in detail the three discharge steps and explained them as the headworks at the beginning, the biological part in the middle, and the positive steps at the end. The process included the removal of particles and grit, a flow measuring device, removal of phosphorus and nitrogen as necessary, and a newly designed system to remove the mutants of nitrogen and phosphorus, and ultraviolet disinfection to kill

any bacteria and ensure plenty of oxygen was in the wastewater being discharged into the river. He stated that the biological process was manufactured by an international reputable company, and the company was selected because the company's reputation and it provided a process guarantee for the biological step.

James Emery, Emery and Garrett Groundwater, provided information on the groundwater supply development program at Clevenger's Corner, which would bode well for the County in terms of its capacity, quality, and the lack of impacts on outside water users around the property. He said that all of the property owners within the boundary indicated on the map had been contacted as part of the investigation for monitoring during the testing, and requests went out for approximately 30 off-site homes to monitor. He explained that a series of wells were drilled, four of which were proposed for production on a normal everyday basis and two additional wells for emergency backup. The State requires these wells to be pumped 48 hours at the appropriate pumping rates. He indicated that the pumping rates were maintained and 600 gallons were pumped a minute and over 3 million gallons of groundwater were pulled out during that testing period. He displayed charts indicating the duration of monitoring; prior pumping and prepumping levels; water levels in offsite wells, onsite wells, and production wells; the recovery period, etc. He provided statistics on each well pumped, the water usage at South Wales, the Department of Health requirements, and stated that they had gone beyond that and developed additional wells. They would not be providing the marginal amount of water to meet the minimum standards of the subdivision, but would be pulling 600 gallons per minute. He said that monitoring the offsite wells and with the lack of impact on the offsite wells, he was sure that a better situation could not be found for this amount of water being developed in a protected environment.

Darrell Rickman informed the Board that Richman Engineering specialized in water treatment, groundwater, and well water types and the water system would meet all of the Department of Health drinking water standards. He stated that the water system would primarily consist of four monitoring wells, with two backup wells, at least one water storage tank and the water treatment system. He noted that at the current time, only one component exceeded the primary drinking water standards, and that was manganese. The Health Department did not consider the level of manganese a health issue, but the applicant would be treating for manganese. He described the filtration system to be used. He said that a master water study would be a part of the project and would cover the entire planning area. He noted that information on the number of tanks needs and their location, etc., would be accumulated into a preliminary engineering report which was required by the Health Department on any project in

the State of Virginia that services public water and it would address the components of the water system, the number of users, the amount of water needed, the cost of the system, the capital costs, as well as the costs to operate and maintain the system.

Patrick Phillips, President, Economics Research Associates, informed the Board that his group consisted of real estate economists and consultants who were active primarily in commercial and mixed use development. He said that there were two straightforward objectives in the market study: (1) To quantify the expected magnitude of the market's support for the various commercial use that had been proposed as part of the project, the retail stores, restaurants, business and personal services office space, and any light industrial components of the project and to help determine the appropriateness of the program that is proposed for the commercial uses; and (2) to determine the source of this market demand, particularly for retail and business and personal services, the geographic area from which these expenditures would be drawn, from which the consumers would be drawn, and by extension to comment on the potential impacts or lack thereof that might occur on other commercial areas in the County, both existing and proposed. The methodology for this kind of analysis consists of an assessment of both supply and demand conditions.

Mr. Phillips stated that there were two trade areas drawn in this portion of the County. He explained that trade areas represent the geographic area from which the bulk of the consumers would be drawn, and they function as the location of the competitive retail offerings, business and personal services; highway locations and their conditions; the location and characteristics of the available residential population; and pass-by traffic or commuting paths obviously affect the trade area. He indicated that Clevenger's had a tightly drawn primary trade area and a broader secondary trade area. He noted that the trade area was truncated to the east because of the large concentration of retail in Warrenton and to the south by a concentration in downtown Culpeper.

Mr. Phillips stated that the market study revealed that even without Clevenger's Village, there was a substantial number of underserved residential populations in the western portions of this trade area to support approximately 83,000 square feet of development currently in retail and food service, including grocery stores. He said he expected that would continue to grow, with the development of the project itself and growth in the trade areas, to about 164,000 in supportable square feet by 2010. He also expected that there would be an additional opportunity to fulfill many of the County's important economic development objectives with a component of an employment center, which could be a combination of office, flex and light industrial, that could account for perhaps 100,000 to 150,000 square feet of development in the

period between 2009 and 2017 based on job growth. He stated that the market study concluded that the planning targets do seem to be appropriate given the nature of the potential trade area and the growth dynamics in the region. He pointed out that within the available secondary market, the proposed concentration of commercial at Clevenger's would only absorb about 14 percent of those potential expenditures, and 86 percent would remain to the extent proposed in downtown Culpeper. He felt there was sufficient headroom for additional commercial development around the village concentration at Clevenger's Village without posing a significant impact on existing or proposed commercial districts in the County.

Ralph Bowden, Bowden Consultants, informed the Board that his firm had prepared a series of fiscal impact analyses beginning with the original, much larger development and gradually shrinking down to the one being dealt with at present. He explained that the general methodology used was a combination of per capita or per employee impacts together with the marginal approach. He used as an example the fact that the budgeted costs for health and welfare were divided by the current population to determine the current per capital level of spending for the associated services; and the marginal approach was used in basing property taxes on the market values for each of the different types of residential properties to develop times the current property tax rate. He said that a student generation rate of .6 students per household and full capital costs based on VMDO estimates were used to arrive at \$27,950 per student, and offered \$5,000 in school proffers and \$1500 for public safety. He noted that the assumption was used that units would not sell as fast as they could sell and offered proffers limiting the number of units that could be introduced on an annual basis, but there was evidence that demonstrated the units could sell significantly faster. This also had an impact on the introduction of commercial space which was attached to the introduction of the residential space and, consequently, the commercial space would be delayed somewhat. He displayed slides depicting this information, as well as the relationship between revenues, costs and net revenues for a 20-year period. He pointed out that the fiscal impact results on an average annual basis: In years 1 through 5, an average of \$342,000 per year positive net revenue to the County; in years 6 through 10, that increases to \$671,000. He stated that averaging those figures would result in \$507,000 per year over a 10-year period, and \$436,000 per year over a 20-year period.

Mr. Bowden stated that the County's budget figures were used where possible, and he thought the study was a realistic approach. He closed by stating that residential values used in the study may prove to be conservative and the positive impacts may be greater than those shown.



John Foote stated that the Board had heard the speakers' analyses on how to make the project work, and it was now up to him, Mr. Neville and Mr. Davies to make it legal and binding. He stated that Virginia had a unique system of zoning called "conditional zoning" and he had been associated with the process for a long time and believed that conditional zoning effectively saved land use practice in the Commonwealth. He pointed out that conditional zoning permitted a rezoning to be altered in a fashion that could be enforced in the courts and would be binding on the applicant. He stressed that all of the comments heard earlier could be converted into something that was more than a promise, but a legally binding promise to the County. He discussed the various steps taken in the process of zoning applications and stated that proffers were no different. Proffers evolve as input is received from staff, VDOT, Planning Commission, citizens' groups, comments at public hearings and what proffers mature into was a mechanism to attempt to identify and mitigate impacts associated with any development in an effort to replicate the requirements, plans and intentions of the Comprehensive Plan.

Mr. Foote reviewed the proffers in detail and emphasized the intent in which they were enforceable.

Steve Plescow, Centex Homes, thanked the Board for hearing the presentations and thanked the staff and the Planning Commission, and County residents who participated over the last year in the entire process. He stated the input had been extremely valuable in addressing the issues reflected in the consultants' reports and analyses. He pledged to continue to be partners with the County in implementing the vision for the first village center in the County.

Mr. Plescow stated that some of the critics of the project had said that Centex and its partners were not doing anything beneficial for the County and, in fact, that the project was going to hurt the County. He felt that could not be further from the truth since Centex had been a business partner with a number of firms based in Culpeper County for many years. He said he planned to continue those relationships and, with the development of this project, expand those relationships. He noted that County residents would benefit from increasing employment opportunities and enhanced County revenues. He pointed out that the proffer package was the most comprehensive and fiscally significant ever offered in County history and set new standards for village centers.

Mr. Plescow stated that one issue that staff asked to be addressed that had not been discussed was affordable housing. He recognized that affordable housing was a serious issue in every County in the Commonwealth, and he proposed to offer an additional proffer for consideration that Centex would develop eight additional lots and donate them at no cost to the

local chapter of Habitat for Humanity for their use to build affordable housing at the project. He added that the lots would be offered to them at no cost, and they would build their product to meet Centex standards.

Mr. Plescow stated that early in the process, he had been told by County staff and some of the Planning Committee members that this project would be held to a higher standard and the priorities would be set very high. He said that he felt the application that was presented to the Board tonight met and exceeded their expectations and would set a new standard for village planning and development in the County.

Mr. Coates announced that the public hearing would be continued at the Board's December meeting, but public comments would be heard this evening and again next month.

Mr. Coates opened the public hearing and called for public comments. He asked that comments be kept to three minutes if possible.

Mrs. Howard, Jefferson District, asked that the Board of Supervisors make a motion to deny any further tabling of the Centex proposal. She reviewed the many sessions she had attended during the past three years and felt that many of the issues still had not been addressed. She stated that a completed water study had not been presented and expressed her concerns about the water supply. She said that she had not seen any evidence that VDOT had done any high-volume traffic impact on Routes 229, 621 and 802. She urged the Board to send the package back to the Planning Commission for review.

Wayne Canada, Builders FirstSource, spoke in favor of the project and Centex. He said that Builders FirstSource employed almost 400 people in Culpeper County, 205 of whom live in the County. He pointed out that Centex was already a part of Culpeper, had been doing business with Builders FirstSource for approximately four years and, in fact, was their number two account at \$6 million per year. He asked the Board for a favorable ruling so that Builders FirstSource could continue to grow and keep the jobs in the County.

Edward Peterson, Jeffersonton District, informed the Board that he had testified several times before the Planning Commission regarding the need to consider drought conditions when calculating the available groundwater supply. He stated that he put together a brief study of the historical climate records for Culpeper County, which he had submitted to the Planning Director. He reviewed the study in detail which used Culpeper climate records to estimate groundwater availability during droughts. He pointed out that the developers made their water measurements during a period of abundant water, and he felt that the developer should examine their groundwater measurements to support drought conditions.

Donnie Johnston, Culpeper native, stated that, he had remained neutral on the issue but

needed to clear up some misconceptions. He said that at a Planning Commission meeting, some gentlemen who opposed Centex had turned to the audience and said, "This is what Culpeper wants." He said he looked at that audience and the only two people who were born in Culpeper were Butch Davies and himself. He said he would submit to the Board that the individuals they had heard from and would be hearing from were not natives of Culpeper, but "Fairfax once removed". He stated that the many problems that had been brought forward, such as clogged roads, overcrowded schools, were not because of people who may come to live in Culpeper County, but because of the people who already live here. He said that the people who complain the most about the proffers were the people who had purchased homes here and had never paid a dime in proffers. He pointed out that growth was coming and the people should get used to it.

Tom Neil, Jeffersonton District, spoke in support of the application. He stated that he shared a common boundary with the project in question, and he supported having all of the development in one planned use district, with the benefits of schools, fire, public safety, library, etc. He further stated that the project would help to control growth in the northern part of the County for the next 5 years. He urged the Board to give favorable consideration to the quality of the project.

Aaron Greso, West Fairfax District, expressed concerns regarding the water issue and how water flow was tested, as well as how revenues were calculated and the assumptions upon which they were based. He mentioned the location of the stoplight on Route 211 and felt it should be at a different location to stem traffic on Route 229. He mentioned also that he had not seen any figures on how much the homes would cost in the village center. He stated that he would prefer that the commercial development be approved and the housing development denied.

Perry Cabot, Jefferson District and representative for Concerned Culpeper Citizens, reviewed the CCC's general and fiscal comments which had been submitted in writing. He pointed out the challenges faced in creating a village center and the extraordinary oversight that would be required by the County. He felt that the plan still needed to be improved and made enforceable to ensure the health, safety and welfare of Culpeper's citizens. See Attachment #1 for detailed comments.

John Murphy, Jeffersonton District, spoke in favor of the development. He stated his land was zoned R-1, and some of it had already been divided into lots, and he held a discharge permit from the Commonwealth of Virginia to discharge water into the Rappahannock River. He said he had proposed several years ago to construct a plant to support his by-right use of

his land and the staff, with some conditions, supported the plant. He noted that he had been encouraged at that time to wait until there was a regional solution in place for that part of Clevenger's Corner. He stated that he was glad that he waited because he thought that the County and staff had provided for a first-rate plant and he would be glad to be a part of it. He said he had been disappointed to hear some of the comments implying that some individuals had more rights to the underground water than others. He noted that the County was capable and resourceful and would be able to solve any problems that may arise on a daily basis. He urged the Board to move forward with the project.

Jacques Queen spoke in opposition to the application. He informed the Board that he lived in Fauquier County, across the river from Centex homes, and his property line exceeded the boundaries of Centex homes or South Wales, both upstream and downstream on the Rappahannock River. He expressed his concern regarding the location of the proposed sewage treatment plant that would be installed 1,000 feet from his property line and would be pumping 850,000 gallons of sewage treatment water into the Rappahannock River. He also expressed his concern that no one had addressed the regarding the neighboring liability issues, and asked who would be responsible with individuals crossing the river onto his property and destroying equipment and/or land.

Francis Updike, Cedar Mountain District, spoke in support of the application. He stated that he drove to Chantilly every day and he would be pleased to see more opportunities for employment in this area. He felt that the Planning Commission had been overly reactive to the vocal minority who had expressed their views. He said the Planning Commission had suggested changes and the developer had made changes to conform to the Comprehensive Plan. He stated he would much rather have the development where it could be controlled and some revenue could be derived from it. He urged the Board to do what was best for the County and move forward with the process.

David Jones, President of Culpeper Chapter Habitat for Humanity, explained the program, how it was organized and the many requirements placed upon the participants in the program. He stated that Habitat had many difficulties in obtaining land upon which to build affordable housing and he welcomed the eight lots being offered by Centex.

With no further comments, Mr. Coates closed the public hearing.

Mr. Coates announced the hearing would be continued on December 2<sup>nd</sup>. He thanked the public for attending.

### **ADJOURNMENT**

Mrs. Smith moved, seconded by Mrs. Hansohn, to adjourn at 11:02 p.m.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

Peggy S. Crane, CMC  
Deputy Clerk

John F. Coates, Chairman

ATTEST:

Frank T. Bossio, Clerk to the Board

APPROVED: December 2, 2003